

Exhibit B: Transcript of Utah Legislative Proceedings

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STATE OF UTAH
COUNTY OF SALT LAKE

Utah House of Representatives

2025 GENERAL SESSION

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Anthony E. Loubet

NONPUBLIC PERSONAL INFORMATION AMENDMENTS

Utah House of Representatives

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Salt Lake City, Utah 84114

Transcribed by:

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1 P R O C E E D I N G S

2 (Excerpt 1 - Senate Judiciary, Law
3 Enforcement, and Criminal Justice Committee - January
4 31, 2025 from 01:32:02 to 01:35:52)

5 CHAIR MEMBER: We're next going to go to
6 Senator Cullimore's bill. This is number three on our
7 agenda, Senate Bill 150.

8 SENATOR CULLIMORE: Okay. Thank you, Chair.
9 So this -- this is a somewhat legally technical bill,
10 but in 2003 Utah passed the -- what would we call it?
11 The Non-public Personal Information Act. And what it
12 does is it disallows companies from selling non-
13 public personal information that they might gather in
14 consumer transactions without proper notice. And
15 that's been going well for 20 plus years and when the
16 legislature passed that Act in 2003, they expressly
17 said that nobody could bring class actions on -- they
18 provided for statutory damages but also prohibited
19 class action lawsuits against businesses that may be
20 in violation of this.

21 In 2000 -- let's see. 2010, there was a
22 U.S. Supreme Court case, Shady Grove, that suggested
23 that procedural -- procedural rights, if they're not
24 substantive rights, could be -- could be severed when
25 seeking these types of remedies. And because our

1 state law has the bar to class actions as a separate
2 subsection, it was deemed to be a severable
3 procedural right for Federal Court purposes and not a
4 substantive right as found in the remedies. And so
5 consequently what we've had now is we have
6 Plaintiff's -- Plaintiff law firms outside of Utah
7 now suing Utah businesses for class action suits
8 related to this, which was not contemplated by the
9 legislature, not intended, and so all this bill does,
10 SB150, is it simply puts the bar to class actions as
11 a substantive right in the law as opposed to what
12 could be deemed a severable procedural right.

13 That's the presentation.

14 CHAIR MEMBER: I just -- I want to just
15 state because I'm a lawyer and a partner at a law
16 firm here in Utah. If this bill passes, it could
17 arguably benefit my law firm and I think that's a
18 good thing, but I do want to acknowledge that I do
19 have that conflict and for anyone that's listening,
20 in the legislature where it says legislature, we all
21 have conflicts, so we're required to disclose them.
22 Not necessarily how I did but I like to be upfront
23 about that but, thank you.

24 SENATOR CULLIMORE: If I could just say --

25 CHAIR MEMBER: Yeah, please.

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1 SENATOR CULLIMORE: -- Chair? This with has
2 brought to me by attorneys and businesses in Utah
3 that are now subject to class actions that did not
4 believe they should be under state law. I have not
5 heard from anybody within the state of Utah that has
6 a problem with this bill.

7 CHAIR MEMBER: Yeah. And I don't think you
8 will. So, let me ask if there's any comments from --
9 or questions from the committee? Senator McKell? No.
10 Okay. All right. Let me ask by a show of hands if
11 there's anyone from the public, either in person or
12 virtually, who would like to be heard on this bill?
13 We'll close the public hearing after seeing no hands
14 and bring it back to the committee for action.
15 Senator Brammer?

16 SENATOR BRAMMER: I was -- I was going to
17 recommend that we move -- looking for the number
18 again.

19 CHAIR MEMBER: It's --

20 SENATOR CULLIMORE: 150.

21 CHAIR MEMBER: Yeah. 150.

22 SENATOR BRAMMER: SB150 to the floor.

23 CHAIR MEMBER: Okay. We have a motion to
24 fairly recommend the bill. Discussion to that note
25 motion seen then. All in favor, say aye.

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1 MEMBERS: Aye.

2 CHAIR MEMBER: Any opposed? Chair rules
3 that passes 6 to 0 unanimously. Thank you.

4 (Excerpt 3 - Senate Floor, Day 23
5 (2/12/2025) [1SB150 Nonpublic Personal Information
6 Amendments, Cullimore] from 00:18:19 - 00:20:53)

7 MALE SPEAKER 1: First substitute Senate
8 Bill 150. First substitute Senate Bill 150, Non-
9 public Personal Information Amendments, Senator
10 Cullimore.

11 SENATOR CULLIMORE: Thank you, president.
12 As discussed yesterday, this has to do with class
13 action suits against Utah businesses that are dealing
14 with data that they may have from consumers. The
15 legislature in their wisdom 20 years ago saw that we
16 should not have class actions but due to federal
17 court procedures and case law that bar on class
18 action under our current statute, can be substituted
19 as -- or procedural, as opposed to substantive and
20 therefore if the federal courts would allow class
21 actions against Utah businesses. And so this just
22 changes it to where the bar on class actions is a
23 substantive right as opposed to procedural.

24 CHAIR MEMBER: Seeing no discussion, going
25 back to you for a motion, Senator.

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1 SENATOR CULLIMORE: My motion is that we
2 pass first substitute Senate Bill 150.

3 CHAIR MEMBER: Thank you. The question is
4 shall the first Senate 150 pass? Roll call vote.
5 Senators Balderree?

6 SENATOR BALDERREE: Aye.

7 CHAIR MEMBER: Blouin?

8 SENATOR BLOUIN: Aye.

9 CHAIR MEMBER: Brammer?

10 SENATOR BRAMMER: Aye.

11 CHAIR MEMBER: Cullimore?

12 SENATOR CULLIMORE: Aye.

13 CHAIR MEMBER: Escamilla? Fillmore?

14 SENATOR FILLMORE: Aye.

15 CHAIR MEMBER: Grover?

16 SENATOR GROVER: Aye.

17 CHAIR MEMBER: Harper?

18 SENATOR HARPER: Aye.

19 CHAIR MEMBER: Hinkins?

20 SENATOR HINKINS: Aye.

21 CHAIR MEMBER: Gibson?

22 SENATOR GIBSON: Aye.

23 CHAIR MEMBER: Johnson?

24 SENATOR JOHNSON: Aye.

25 CHAIR MEMBER: Kwan?

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1 SENATOR KWAN: Aye.
2 CHAIR MEMBER: McCay?
3 SENATOR MCCAY: Aye.
4 CHAIR MEMBER: McKell?
5 SENATOR MCKELL: It is going to be an aye.
6 CHAIR MEMBER: Millner? Senator Millner.
7 SENATOR MILLNER: Aye.
8 CHAIR MEMBER: Musselman?
9 SENATOR MUSSELMAN: Aye.
10 CHAIR MEMBER: Owens? Senator Owens?
11 SENATOR OWENS: I am here. Aye.
12 CHAIR MEMBER: Pitcher?
13 SENATOR PITCHER: Aye.
14 CHAIR MEMBER: Plumb?
15 SENATOR PLUMB: Aye.
16 CHAIR MEMBER: Riebe?
17 SENATOR RIEBE: Yes.
18 CHAIR MEMBER: Sandall?
19 SENATOR SANDALL: Aye.
20 CHAIR MEMBER: Stevenson?
21 SENATOR STEVENSON: Aye.
22 CHAIR MEMBER: Stratton?
23 SENATOR STRATTON: Aye.
24 CHAIR MEMBER: Thatcher?
25 SENATOR THATCHER: Aye.

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1 CHAIR MEMBER: Vickers.

2 SENATOR VICKERS: Aye.

3 CHAIR MEMBER: Weiler?

4 SENATOR WEILER: Aye.

5 CHAIR MEMBER: Wilson?

6 SENATOR WILSON: Aye.

7 CHAIR MEMBER: Winterton.

8 SENATOR WINTERTON: Aye.

9 CHAIR MEMBER: President Adams?

10 PRESIDENT ADAMS: Aye. First sub to Senate
11 Bill 150 having received 28 yay votes, zero nay
12 votes. One being absent. Passes this body and will be
13 sent to the house for their consideration.

14 (Excerpt 2 - House Judiciary Committee -
15 February 20, 2025 from 00:06:49 - 00:12:04)

16 CHAIR MEMBER: We'll now go to number two
17 on the agenda, which is first substitute SB150, Non-
18 Public Personal Information Amendment, Senator
19 Cullimore.

20 SENATOR CULLIMORE: All right. Thank you,
21 Chair, committee. So this bill is -- is somewhat
22 legally technical in nature and I want to highlight
23 that it's not really changing policy of Utah at all.
24 But what this -- what this does, this was brought to
25 me by a constituent attorney and when I open the bill

1 I found out that there are many other attorneys that
2 were supportive of this as well as many other
3 businesses in the state of Utah. Because what this
4 does is for lawsuits against businesses for selling
5 or whatever non-public personal information. There's
6 always been a bar on a class action type lawsuit for
7 this and that -- that has been the policy of Utah
8 since -- as I recall, I want to say it was like 2003.
9 So over 20 years. However, there was a U.S. Supreme
10 Court case, Shady Grove, that didn't have anything to
11 do with these types of claims. But it did say that if
12 a bar to class action is procedural in nature, that
13 under Federal -- Federal Rules of Civil Procedure,
14 they can -- they can basically bifurcate this and if
15 it's not a sub -- if the bar to class action was not
16 a substantive right, that federal courts can move
17 forward with a class action lawsuit. If they deemed
18 that the that the state law was procedural in nature.
19 But because the bar to class action in this was a
20 different subsection, the federal courts in Utah have
21 determined that this is a procedural bar to class
22 actions and not a substantive right. And so what the
23 attorneys have asked for is to move this bar to class
24 action, which has been recognized in Utah code for
25 over 20 years to move it so that it is recognized at

1 a -- as a substantive right, which I believe was the
2 intent of the of the legislature all along.

3 And I talked to a Chair Abbott and, you
4 know, there may be some disagreement with the
5 underlying policy and that's fine. That might be a
6 discussion for a different day. That's not this bill.
7 And -- and what I mean by that is the underlying
8 policy of whether you should be able to bring claims
9 against businesses for the disclosure of non-public
10 personal information and all that. But, as it is, the
11 current law is not being applied in federal court in
12 the state of Utah. So, plaintiff attorneys -- and
13 they're all exclusively as -- as far as I know
14 outside of Utah, suing Utah businesses -- are using
15 this procedural loophole, if you will, in federal
16 court to bring class action claims against Utah
17 companies. So this this fixes that loophole and just
18 says, no, we intended for the class action to be a
19 substantive right and that's basically what this bill
20 does.

21 CHAIR MEMBER: Okay. Thank you. We will go
22 to the committee for clarifying questions or
23 comments. Representative Auxier.

24 REPRESENTATIVE AUXIER: Thank you, Mr.
25 Chair. Okay, Senator. So in layman's terms, this

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1 means that you can't bring class actions not because
2 of choice, but because it's part of the underlying
3 law. Is that --

4 SENATOR CULLIMORE: Correct.

5 REPRESENTATIVE AUXIER: -- that's what
6 we're saying here?

7 SENATOR CULLIMORE: Yes.

8 REPRESENTATIVE AUXIER: Okay. Great. Thank
9 you.

10 SENATOR CULLIMORE: Yeah.

11 CHAIR MEMBER: Okay. Thank you. Seeing no
12 further lights, we will open it to public comment.
13 Thank you. Go ahead.

14 MR. DAVIS: Thank you, Mr. Chair. Dave
15 Davis, president of Utah Retail Merchants Association
16 and it seems like brevity is the order of the day
17 today. This is a good bill. You should vote for it.
18 Thanks.

19 CHAIR MEMBER: Are there -- there may not
20 be any attorneys online. There were a few attorneys
21 that spoke to it an the senate committee but maybe
22 they're -- they're caught unawares or didn't -- okay.
23 There's nobody on the line. Okay. So all right, that
24 concludes public comment. We will go to the committee
25 for Committee Action. Representative Loubet?

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1 REPRESENTATIVE LOUBET: Thank you, Mr.
2 Chair. I move that we favorite -- favorably recommend
3 SB150 first sub to the house floor.

4 CHAIR MEMBER: Okay. So the motion is to
5 favorably recommend first sub SB150 to the full
6 House. Do you want to speak to that?

7 REPRESENTATIVE LOUBET: Just briefly. I
8 mean, I think this is something that's been kind of
9 the understood law for -- for couple decades, but,
10 because of recent courts' interpretation, I think
11 this is necessary to clarify what the intent was and
12 so that way it's applied consistently both in state
13 and federal courts.

14 CHAIR MEMBER: And let's see, Senator
15 Cullimore?

16 SENATOR CULLIMORE: I'll -- I'll ditto
17 Representative Loubet.

18 CHAIR MEMBER: Okay. Ditto. Got that. All
19 right. Seeing no further lights we will place the
20 motion. So the motion is to favorably recommend first
21 sub SB150. All in favor say aye.

22 MEMBERS: Aye.

23 CHAIR MEMBER: Any opposed? Passes
24 unanimously. Congratulations.

25 SENATOR CULLIMORE: Thank you, guys.

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1 (Excerpt 4 - House Floor, Day 36
2 (2/26/2025) [SB150 Nonpublic Personal Information
3 Amendments, Loubet] from 00:53:52 - 00:57:04)

4 MALE SPEAKER 1: Madam Clerk?

5 FEMALE SPEALER 1: For substitute Senate
6 Bill 150, Non-public Personal Information Amendments
7 by Senator Cullimore. This bill is Judiciary with a
8 vote of 1001 to have sponsors. Representative Loubet?

9 CHAIR MEMBER: Representative Loubet?

10 REPRESENTATIVE LOUBET: Thank you, Mr.
11 Speaker. This bill is legally technical. So if I have
12 to lawyer speak for a little bit, I apologize.

13 In Utah, we have a law and a policy that
14 says for lawsuits against businesses for selling non-
15 public information, that they are -- you're barred
16 from making us a part of a class action lawsuit. So
17 that's the current policy since 2003. People will
18 still have their own private right of action. There
19 was a recent Supreme Court case, Shady Grove versus
20 Allstate, that didn't directly address this but
21 created some laws that said that if there's a bar to
22 a class action in a statute, the court would
23 determine whether it was procedural in nature or if
24 it was a substantive right. If it was procedural in
25 nature, it could be bifurcated and federal procedures

1 would be able to be applied. So, what's happening is,
2 outside companies are able to bring in Utah
3 businesses in a class actions, but that can't happen
4 within Utah. And so what we're trying to do is keep
5 the policy consistent for inside as well as outside.
6 And so this bill is clarifying that this is a
7 substantive right and not a procedure and it's not
8 procedural in nature. And I'm happy to answer any
9 questions.

10 CHAIR MEMBER: Thank you, Representative
11 Loubet. Discussion to the bill? Seeing none. Back to
12 Representative Loubet for summation?

13 REPRESENTATIVE LOUBET: I waive.

14 CHAIR MEMBER: Summation has been waived.
15 Voting will now be open and first substitute SB150,
16 Non-public Personal Information Amendments. Seeing
17 all present having voted, voting is now closed.
18 Senator Abbot? There we go. Seeing all present having
19 voted, voting is now closed. First substitute SB150
20 passed this body was 61 yes votes, zero no votes.
21 Will be signed by the speaker and sent to the Senate
22 for the signature of the president.

23 (The recording was concluded.)

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CERTIFICATE OF TRANSCRIBER

I, Lauren Bishop, do hereby certify that
the foregoing transcript is a true and correct record
of the recorded proceedings; that said proceedings
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audio recording and supporting information; and that
I am neither counsel for, related to, nor employed by
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financial or otherwise, in its outcome.

Lauren Bishop

LAUREN BISHOP
PLANET DEPOS, LLC
MARCH 10, 2025

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